

1 HAROLD J. McELHINNY (CA SBN 66781)  
 2 MATTHEW I. KREEGER (CA SBN 153793)  
 3 KRISTINA PASZEK (CA SBN 226351)  
 HMcElhinny@mofo.com  
 MKreeger@mofo.com  
 KPaszek@mofo.com  
 4 MORRISON & FOERSTER LLP  
 425 Market Street  
 5 San Francisco, California 94105-2482  
 Telephone: (415) 268-7000  
 6 Facsimile: (415) 268-7522

7 Attorneys for Defendant  
 8 TARGET CORPORATION

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

13 NATIONAL FEDERATION OF THE BLIND,  
 14 the NATIONAL FEDERATION OF THE  
 BLIND OF CALIFORNIA, on behalf of their  
 15 members, and Bruce F. Sexton, on behalf of  
 himself and all others similarly situated,  
 16 Plaintiffs,  
 17 v.  
 18 TARGET CORPORATION,  
 19 Defendant.

Case No. C 06-01802 MHP

**TARGET CORPORATION'S  
 REVISED RULE 26(F) PROPOSED  
 DISCOVERY PLAN**

Judge: Hon. Marilyn Hall Patel

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1 The parties have met and conferred in an attempt to reach agreement about case  
2 management. The parties have reached agreement regarding the duration of discovery  
3 periods and the deadline for filing dispositive motions. The parties continue to disagree as to  
4 when merits discovery should commence, and whether depositions of proposed class  
5 representatives can be taken now before merits discovery begins.

6 The Court entered an order on October 2, 2007, that granted plaintiffs' motion for  
7 class certification. Target has filed a petition under Federal Rule of Civil Procedure 23(f)  
8 with the U.S. Court of Appeals for the Ninth Circuit to seek review of that decision. Among  
9 other things, Target maintains that it was improper for the Court to certify, for purposes of  
10 plaintiffs' ADA claim, a nationwide class with a class representative to be designated later.  
11 Target's petition, plaintiffs' opposition, and Target's motion for leave to file a reply brief  
12 were filed with the Ninth Circuit on October 16, October 30, and November 5, 2007,  
13 respectively, and are attached as Exhibits A, B, and C.

14 Target maintains that the most efficient case management approach is to begin merits  
15 discovery after the Ninth Circuit rules on Target's petition for leave to appeal the class  
16 certification order. Target also maintains that it should be permitted to depose plaintiffs'  
17 proposed class representatives now, so that their adequacy as representatives can be tested.  
18 Plaintiffs have refused to provide dates for these depositions unless Target agrees to begin  
19 merits discovery.

20 Target understands that the Court has requested that the parties submit revised  
21 discovery plans under Rule 26(f). Target's proposed discovery plan follows:

22 **Initial Disclosures**

23 As stated in the Joint Case Management Statement filed on October 13, 2006, the  
24 parties have made their Rule 26 initial disclosures.

25 **Limitations on Discovery**

26 The Court has already ruled, in its order of October 24, 2006, that requests for  
27 admission, interrogatories, and documents requests are each limited to sixty per side. In the  
28 same order, the Court ruled that depositions were to be limited to twenty per side. The Court

1 subsequently ruled on May 31, 2007, that Target could depose up to ten additional putative  
2 class members who filed declarations on May 25, 2007, and these depositions would not  
3 count against the limit of twenty depositions per side. As explained below, Target believes  
4 that depositions of proposed new class representatives likewise should not count against the  
5 limit of twenty depositions per side.

### 6 **Discovery Schedule**

7 Target should have an opportunity to depose the individuals that plaintiffs seek to  
8 substitute as class representatives for the nationwide class. Target is entitled to test the  
9 adequacy of any proposed class representatives to determine whether they satisfy the  
10 requirements of Rule 23. These depositions are part of class certification discovery, which is  
11 already open, and there is no reason for their delay. Furthermore, because the substitution of  
12 new class representatives was not foreseen when the Court previously ordered a limit on  
13 depositions and when Target decided whom to depose, these depositions should not count  
14 against the previously ordered limit.

15 The parties have reached agreement as to the proposed duration of the relevant  
16 periods of discovery; the only dispute is whether that discovery should begin now or await a  
17 ruling on Target's Ninth Circuit 23(f) petition. Assuming that Target's Rule 23(f) petition is  
18 denied, Target proposes the following schedule:

19 A. Merits fact discovery would begin shortly after the issuance of an order on  
20 Target's Rule 23(f) petition and would close eight months later.

21 B. The deadline for simultaneous expert disclosures required by the Federal  
22 Rules would be four weeks after the close of merits fact discovery.

23 C. The deadline for simultaneous expert rebuttal disclosures would be four weeks  
24 after the deadline for expert disclosures.

25 D. The deadline for expert discovery would be four weeks after the deadline for  
26 expert rebuttal disclosures.

27 E. The deadline for the filing of dispositive motions would be six weeks after the  
28 deadline for expert discovery.

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**Service of Discovery**

As stated in the Joint Case Management Statement filed on October 13, 2006, the parties have agreed that discovery can be served via email to the attorneys of record for the opposing party and that such service shall constitute service by hand under the Federal Rules.

Dated: November 28, 2007

HAROLD J. McELHINNY  
MATTHEW I. KREEGER  
KRISTINA PASZEK  
MORRISON & FOERSTER LLP

By: /s/Harold J. McElhinny  
Harold J. McElhinny  
Attorneys for Defendant  
TARGET CORPORATION